

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 In re:

12 ANIBEL MESALA SILVA,

13 Debtor
14 _____

15 ANIBEL MESALA SILVA,

16 Appellant,

17 vs.

18 JOSEPH GAETA,

19 Appellee.
20 _____

CASE NO. 08 CV 0783 JM (WMc)

**ORDER GRANTING MOTION TO
PROCEED IN FORMA PAUPERIS
AND SETTING APPEAL AND
BRIEFING SCHEDULE**

21 **MOTION TO PROCEED IN FORMA PAUPERIS**

22 Appellant, a non-prisoner proceeding pro se, has filed a motion to proceed in forma pauperis
23 pursuant to 28 U.S.C. § 1915(a). His motion reflects that he is employed and earns between \$600 and
24 \$700 per month; has three dependents; and has numerous creditors and substantial debt. While he also
25 owns a condominium valued at \$250,000, he owes \$400,000 on the property. He owns a 1991 Volvo
26 740 and a 2005 Ford Focus, and owes \$14,000 on the latter. Having considered these facts, the court
27 **GRANTS** Plaintiff's motion to proceed in forma pauperis. The court further orders that the Clerk of
28 Court shall serve a copy of this order on appellee Joseph Gaeta.

1 APPEAL AND BRIEFING SCHEDULE

2 The court has set a hearing date for the purposes of this appeal from the United States
3 Bankruptcy Court to be held on **October 24, 2008, at 1:30 p.m. in Courtroom 16**. In preparation
4 for the appeal the court orders the following appeal and briefing schedule:¹

5 1. This court shall receive a record of appeal no later than **Friday, August 8, 2008**. It is
6 counsels' obligation, after determining those sections of the record relevant to the motion, to notify
7 the court reporter and arrange for the desired portions of the transcript to be prepared and sent to the
8 Bankruptcy Appeals Clerk at the U.S. Bankruptcy Court. See Fed. R. Bank. Proc. 8007; General
9 Order 312-D, § 2.03. All counsel intending to appeal a portion of the Bankruptcy Court's decision,
10 therefore, must notify the court reporter in a timely fashion so that the transcripts may be completed
11 and submitted to the Appeals Clerk of the Bankruptcy Court. Each counsel must also provide two
12 copies of any documents he or she wants made part of the record to the bankruptcy appeals clerk of
13 the Bankruptcy Court so the bankruptcy appeals clerk can certify those documents and transmit them
14 to this court.² Each counsel is solely responsible for monitoring the process governing the completion
15 of the record to ensure that this court is provided a certified record on appeal under the time table
16 established in this order. If Appellee intends to certify portions of the record after receiving the
17 submissions by Appellant, counsel for Appellees must do so with such rapidity as to comply with the
18 briefing schedule outlined below.

19 2. No later than **Friday, September 12, 2008**, Appellant shall serve and file its opening
20 brief and supporting evidence. The motion shall comply with the Local Rules for the U.S. District
21 Court for the Southern District of California, Civil Local Rule 7.1.h. Any cross-appeals shall be
22 treated as opening motions for purposes of this briefing schedule and filed by this date.

23 3. No later than **Monday, September 22, 2008**, Appellee shall serve and file its
24

25 ¹These dates apply to any portion of the Bankruptcy Court's decision which is being appealed
26 by Appellant or cross-appealed by Appellee.

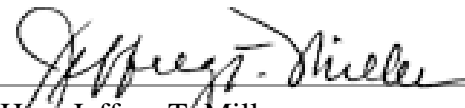
27 ² After designation of the record, a period of time elapses during which the Bankruptcy Court
28 completes the record for transmittal to the district court. The parties can check with the Appeals
Specialty Clerk for the United States Bankruptcy Court in San Diego, at (619) 557-2692 to ensure the
records are being processed.

1 responsive brief and supporting evidence. This responsive brief shall comply with the Local Rules
2 for the U.S. District Court for the Southern District of California, Civil Local Rule 7.1.h;

3 4. No later than **Wednesday, October 8, 2008**, Appellant shall serve and file any reply
4 brief and any evidence directly rebutting the supporting evidence contained in appellee's response.
5 This reply shall comply with the Local Rules for the U.S. District Court for the Southern District of
6 California, Local Civil Rule 7.1.h.

7 **IT IS SO ORDERED.**

8
9 DATED: May 30, 2008

10 
11 Hon. Jeffrey T. Miller
United States District Judge

12 cc: All parties
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28